

CITY OF MIAMI BEACH
Office of the City Manager
Letter to Commission No. 150-2005



To: Mayor David Dermer and
Members of the City Commission

Date: June 8, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **2005 FLORIDA LEGISLATIVE SESSION**

RECEIVED
JUN -9 AM 10:03
CITY CLERK'S OFFICE

The purpose of this LTC is to provide the Mayor and City Commission with a report on the 2005 Florida Legislative Session. A full report before the City Commission by the City's representatives in Tallahassee is scheduled for the July 6, 2005 Commission meeting.

MIAMI BEACH FUNDING PRIORITIES

On May 6, 2005, the Florida Legislature approved the State's \$64.7 billion budget and forwarded it to the Governor for his approval. Below is a list of Miami Beach appropriations that were included in the legislation:

City of Miami Beach Stormwater Infrastructure Improvement Project -	\$400,000
City of Miami Beach Wastewater Project (no large city wastewater projects funded)	\$0
City of Miami Beach After-School Program	\$100,000
Byron Carlyle Theater Cultural Facility Grant	\$500,000
Collins Campus Rotunda Restoration Cultural Facility Grant	\$400,000
Beach Renourishment (test beach project within the City of Miami Beach)	\$5,500,000
Normandy Isle Park FRDAP Grant	\$200,000
Muss Park Renovation FRDAP Grant	\$80,000
Colony Theater (URS services)	<u>\$139,239</u>
Total included by Florida Legislature	\$7,319,239

Included in the State budget is a line item for "Aid to Local Governments" in the budget of the Department of Management Services:

"From the funds in Specific appropriation 2652A, \$139,239 from the General Revenue Fund is provided to the City of Miami Beach for project management services."

In March, the City Commission directed the Administration to pursue reimbursement of the URS fees associated with the Colony Theater project, as well as addressing issues related to the phase III Cultural Facilities Grant. The Administration worked with the City's state lobbyists and elected officials, as well as a representative of the Governor's office to pursue and secure an earmark for the URS fees during the budget discussions. Representative Barreiro and Senator Margolis each sponsored an amendment to the appropriations bill to earmark this funding for the City. The amendment was accepted in the House version of the bill, survived conference committee, and was included in the final budget that was forwarded to the Governor. This line item was not vetoed by the Governor.

On May 26, 2005, Governor Bush signed the budget and vetoed certain projects. Among the projects that were vetoed, the only City of Miami Beach project was the After School Program (\$100,000). In his veto message, the Governor stated that:

"Senate Bill 2600 furthers Florida's priorities for the state's K-20 educational system. While many projects help achieve our educational priorities, others do not, such as funding for several educational facilities projects which did not follow the established facilities review process or meet a critical state need. The facilities review process provides a thoughtful, long-range examination of funds forecast for educational facilities construction and ensures that construction projects which meet critical state needs are approved only to the extent the completion of the project may be funded in a reasonable timeframe. The budget includes a number of projects that are outside the normally accepted recommendation process, placing additional demands on General Revenue and the Public Education Capital Outlay trust fund in future years."

Total Miami Beach Included in the Approved Budget **\$7,219,239**

Although one Miami Beach project was vetoed, by all accounts the City had a very successful funding year in Tallahassee. By comparison, following is a summary of the funding the City received in prior State budgets:

2004	\$418,000	
2003	\$2,327,360	
2002	\$2,060,000	
2001	\$545,000	(does not include \$175K that was vetoed)
2000	\$1,552,000	(does not include \$100K that was vetoed)

Other Items of Interest in the 2005-06 Budget

Education * the DCD formula, altered during the 2004 Session, remains in place. However, Miami-Dade received an additional \$114 million for 2005-06.

Film & Entertainment Industry Incentive Program - \$10 million

State Housing Initiative Partnership (SHIP) Program - \$130,886,000 HB 1889 passed, and it caps the amount of distribution into various trust funds from documentary stamps. \$136 million is the cap placed annually on the State Housing Trust Fund, or SHIP. However, beginning July 1, 2008, the amount is to be increased by ten percent annually. Provisions are also made in the bill to accommodate the recommendations of the Affordable Housing Task Force, conducted by Lt. Governor Toni Jennings for the hurricane-affected counties.

MIAMI BEACH LEGISLATIVE PRIORITIES

Legislation That Passed

Beach Safety

HB 1375 passed this Session. This bill, which regulates the warning system established by the Department of Environmental Protection (DEP), was amended by the lobbying team, in cooperation with the department, to include clarifying language proposed by the City's legal department. The new language stipulates that only warning and safety flags developed by DEP shall be displayed. Participation in the program is open to any government having jurisdiction over a public beach along the coast, whether or not the beach has lifeguards.

Due to the recommendations provided by the City staff and pursued by the lobbying team, the liability language is greatly strengthened in the bill. It now reads, "Due to the inherent danger of constantly changing surf and other naturally occurring conditions along Florida's coast, the state, state agencies, local and regional government entities or authorities and their individual employees and agents shall not be held liable for any injury or loss of life caused by changing surf and other naturally occurring conditions along coastal areas, whether or not uniform warning and safety flags or notification signs developed by the department are displayed or posted." If signed by the Governor, the bill becomes effective July 1, 2005.

Convention Development Tax

This legislative request was to conform the eligible uses of the two-thirds portion of the revenues collected from the convention development tax to include golf courses, which is an eligible statutory use of the one-thirds portion. This was accomplished in a tax administration bill, HB 1813, which was amended to contain this language.

Consultants Competitive Negotiation Act (CCNA)

The City's lobbyists were initially successful in amending the required criteria used to award contracts to architects and engineering firms on certain public construction projects. The bills, SB 2784 and HB 601, were in their final committees when the Florida Department of Transportation came to the bill sponsor and said they could not accept the changes that the City had recommended. The City's lobbying team worked with the department and with staff of the bill sponsor to run a two-track set of criteria, one for state agencies and one for cities. However, the professional associations for architects and engineers came forward and said they would not accept dual sets of criteria. At that point, the Senate sponsor, who sponsored the bill for the professional associations, made a decision to take out the City's language.

Article V

HB 1935 passed as an Article V glitch bill, which included clarifications related to payment and recovery of costs related to local ordinance violations, filing fees, as well as fees assessed to the violator.

Tax Administration

SB 300 passed, which repeals Section 11 of Chapter 200-312, Laws of Florida. It abrogates the repeal of numerous sections of Florida law which would have been repealed effective October 1, 2005 unless reenacted by the Legislature. During the 2000 Regular Session, a number of bills were amended onto HB 509, which passed the Legislature. One of the bills contained a repealer which was not limited in scope. Among provisions it would have repealed is the tourist development tax and the RISE program, which are very important to the City.

Growth Management

SB 360, a major growth management reform bill, passed. The bill requires local governments to maintain a five-year schedule of financially feasible capital improvements. Within eighteen months after the water management district updates its regional water supply plan, the local governments must incorporate alternative water supply projects in their comp plans. Each county and each municipality within the county must adopt a public school facility element that is consistent with those adopted by the other local governments within the county and enter into an interlocal agreement. The public school facility element shall be adopted no later than December 1, 2008.

The bill specifies that prior to approval of a building permit, a local government must determine whether adequate water supplies to serve the new development will be available no later than the anticipated date of issuance by the local government of a certificate of occupancy. Transportation facilities needed to serve a new development shall be in place or under actual construction within three years after the local government approves the building permit. Transportation concurrency exception areas which are in existence prior to July 1, 2005 must meet new provisions by July 1, 2006.

The bill establishes a School Concurrency Task Force to review the requirements for school concurrency in law and make recommendations regarding streamlining the process and procedures for establishing school concurrency. The Task Force is to report by December 1, 2005.

The bill further establishes the Florida Impact Fee Review Task Force. The Task Force is to investigate whether the imposition of impact fees by local governments should be regulated by law and is to report their findings by February 1, 2006. SB 232 and HB 1173, which would have restricted the ability of local governments to impose impact fees, died.

Construction Services Prompt Pay

HB 509, which revises provisions for timely payment of purchases of construction services by local governments, passed, but has not yet been acted on by the Governor. This is legislation that has been debated in the Legislature for several years, but has not passed until this year. Although not as negative as what had been proposed in the past, there remain key elements to this bill that place unnecessary constraints upon governmental construction work that does not exist in the private sector. Specifically, the bill precludes municipalities from negotiating the amount of construction "retainage." Additionally, the bill includes a "punch list" process that specifies restrictions that do not exist in the private sector. The City has communicated its opposition to this bill to the Governor.

Hurricane-Related Legislation

SB 1486 by Sen. Garcia passed this Session. It is the major property insurance bill, with numerous post-hurricane related issues. The bill provides assistance for both insurance companies and residential homeowners. The bill reworks the amount of funds an insurer is able to collect from the Hurricane Catastrophe Fund for multiple covered events during a contract year, beginning June 1, 2005. The bill further directs the Department of Community Affairs to develop a low-interest loan program for homeowners to retrofit their homes with fixtures or apply construction techniques that have been demonstrated to reduce the amount of damage or loss due to a hurricane. This is to be done by the 2006-07 Fiscal Year through funding in the Hurricane Loss Mitigation Program.

Property insurers are prohibited from canceling or failing to renew personal residential or commercial residential property insurance covering a dwelling which has any damage as a result of a hurricane or wind loss that is a subject of a declaration of emergency for ninety days after the dwelling has been repaired, and the bill defines "repaired". There are exceptions made for non-payment of premium.

After October 1, 2005, residential property insurance offerings or renewals must provide the policyholder with the option of a hurricane deductible that applies on an annual basis or that applies to each hurricane.

HB 6001, Hurricane Sales Tax Holiday, passed and provides for sales tax relief between June 1, 2005 through June 12, 2005 for certain items purchased in preparation of hurricane season. These items include flashlights selling for \$20 or less, radios selling for \$50 or less, waterproof sheeting and tarpaulin selling for \$50 or less, first aid kits selling for \$30 or less, tie-kits and ground anchoring systems selling for \$50 or less, gas or diesel fuel tanks selling for \$25 or less, batteries selling for \$30 or less, non-electric food storage coolers selling for \$30 or less, portable generators selling for \$750 or less.

Entertainment

HB 1129 passed, which is a glitch bill for the Financial Incentive Program created for the entertainment industry within the Office of Film & Entertainment in the Governor's Office. The bill broadens the definition of what constitutes the entertainment industry for purposes of this grant program and adds definitions for production costs and qualified expenditures and qualified productions for purposes of the grant program. The bill clarifies the reimbursement eligibility and recommendations for payment provisions, and the eligibility for funding is changed from first-come, first-served to a more defined process for the application period.

Telecommunications Issues

SB 620, Cellphone Tower Siting, passed this Session. This is a follow-up to legislation which was passed two years ago. It encourages the collocation of wireless antennas; it sets out definitions and procedures that local governments need to follow when regulating the placement, construction or modification of wireless communication facilities; and it sets out a timetable for denying or granting properly completed applications; it allows a local government to impose an application fee.

SB 1322, among other provisions, sets out guidelines for local governments that wish to provide telecommunication services for profit.

SB 2070, eliminates the tax on communication systems which has been in place for several years but not actively enforced by the Department of Revenue. Had this bill not passed, such items as the City's interoffice communications systems could have been subject to tax.

Distribution of Handbills in Public Lodging Establishments

SB 1454, entitled the Tourist Safety Act of 2005, passed. This bill would prohibit the distribution of handbills as defined in the bill in any public lodging establishment without explicit permission of the establishment owner. Violation is a misdemeanor of the first degree. Public lodging establishments are required to post signs which indicate no advertising or soliciting is permitted on the premises.

Education

SB 1678, entitled Public School Class Size, passed. This bill amends s. 1003.03, F.S., related to maximum class size. It provides that beginning in the 2005-06 school year, a district that does not meet the required average class size reduction in a prior year, and which has funds transferred from the district's class size reduction operating fund to an approved capital outlay fund, to be eligible to reverse that transfer, if the district fully achieves the required class size reduction in the subsequent year. The bill further clarifies the calculation to determine whether a school district is in compliance with the average class size requirement.

Legislation That Did Not Pass

Convention Center Sales Tax Refund

Throughout the Session, the Senate fought most attempts to increase any sales tax rebates. Senate President Lee felt that additional revenues should be spent on infrastructure for growth management, and therefore held tax rebates and refunds to a minimum. The House passed the Convention Center Sales Tax Refund bill, HB 173, but also attached to it tax rebates for the Marlins, the Orlando Magic, spring training facilities, and for NASCAR. The Senate never took up the bill.

Claims Bill

The Tunc claims bills, SB 34 and HB 731, which dealt with the City of Miami Beach's liability for the loss of life of one Tunc sister and injury to another on the beach several years ago, did not pass this Legislative Session. The bill was heard in two committees in the House, but the Senate did not consider any claims bill this Session.

Bert J. Harris Act

No language passed this Session which would have amended the Bert Harris Act. Language which was contained in the Agricultural Economic Development bill did not pass this Session, although there were numerous attempts to amend the language onto other bills during the last week of Session.

Resort Tax Issues

Although three bills were filed, HB 1357, SB 2454, and SB 2558, no legislation passed this Session which would have insured that the resort tax and convention development tax are collected on hotel room sales that occur over the Internet.

Executive Session

This request was to allow an assistant city manager or a department director to attend executive sessions held in private with the City's attorney to discuss pending litigation. The lobbying team worked with Rep. Gelber on this issue, and with the First Amendment Coalition, which opposed this language. This legislative priority was not accomplished during this session.

Community Redevelopment Agencies

The firefighter CRA bill, SB 2080, which was filed on behalf of the firefighters in Miami Beach, was not heard during this Session.

Easements and Rights of Way

This request was to allow municipalities to sell easements and rights of way at fair market value if the municipality determined that the easement or right of way is no longer needed and is vacant and its sale is in the public interest. Due to the complexities of the issue and time constraints, a legislative fix was not forthcoming this Session.

Hurricane-Related Legislation

HB 677 and SB 526, which would have established an Electric Utility Task Force to examine multiple post-hurricane issues, including the undergrounding of utilities, did not pass this Session.

Entertainment

HB 873 and SB 750, which would have deregulated talent agents, did not pass. Additionally, the lobbying team worked with sponsors of the Cosmetology bills, SB 828 and HB 789, to include an exemption from the provisions of the Florida Cosmetology Law for persons working with professional models in photography shoots. However, these bills were not heard.

JMG  kc

- c: Tim Hemstreet, Assistant City Manager
Bob Middaugh, Assistant City Manager
Patricia Walker, Chief Financial Officer
Kathie Brooks, Director, Budget and Performance Improvement
Kevin Crowder, Economic Development Division Director